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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/872,527	06/11/97	GUO	225/273

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18M1/0108

EXAMINER
CUNNINGHAM, I

ART UNIT	PAPER NUMBER
1816	

DATE MAILED: 01/08/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**08/872,527**

Applicant(s)  
**Guo, Y.**

Examiner  
**Thomas Cunningham**

Group Art Unit  
**1816**



Responsive to communication(s) filed on \_\_\_\_\_

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

X Claim(s) 1-48 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

X Claims 1-48 are subject to restriction or election requirement.

## Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some\* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Serial Number: 08/872,527

Art Unit: 1816

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-22 and 33-48, drawn to compositions comprising "bridge molecules" and methods of treatment involving administration of such compositions, classified in class 424, subclass 193.1.
- II. Claims 23-32, drawn to methods of making compositions comprising "bridge molecules", classified in class 530, subclass 403.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the compositions may be made by alternative means, including via chemical synthesis, recombinant expression or by purification from natural sources.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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4. Upon election of either Group I or Group II a further election of species is required. Claims 1-48 are generic to a plurality of disclosed patentably distinct species comprising materially different bridge molecules. Applicant is required to elect (1) a particular structurally-defined type of bridge molecule, i.e. by specifying the active moieties of the claimed bridge molecule, e.g. if a bispecific antibody is elected, then Applicant should specify what each antigen binding site of said antibody binds to; if a chimeric protein is elected then Applicant must specify what each active component of said chimeric protein is, e.g. the identity each antigen-binding ligand and which costimulatory molecule each ligand binds to. (2) Applicant is also required to elect one species of method involving the administration of a composition comprising the above elected species of bridge molecule and further specify the other ingredients of composition used in the elected method of treatment claims as well as specific method steps for the elected method.

In view of the difficulty interpreting and examining the plethora of different methods and compositions encompassed by the instant claim language, Applicant is required to point out which claims are intended to encompass the elected species.


5. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In

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either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. A telephone call was made to Anthony Chen on 1/6/98 to request an oral election to the above restriction requirement, but did not result in an election being made. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Cunningham, Ph.D., J.D. whose telephone number is (703) 308-3968.

  
THOMAS M. CUNNINGHAM  
PRIMARY EXAMINER  
GROUP 1800